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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2013-503*

11 **DONELLE GIROUARD, AKA DONELLE**  
12 **MARIE GIROUARD**  
13 **12712 Beechfield Drive**  
**Bakersfield, CA 93312**

**A C C U S A T I O N**

14 **Registered Nurse License No. 462923**

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about March 31, 1991, the Board of Registered Nursing issued Registered  
23 Nurse License Number 462923 to Donelle Girouard, aka Donelle Marie Girouard (Respondent).  
24 The Registered Nurse License was in full force and effect at all times relevant to the charges  
25 brought herein and will expire on February 28, 2013, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

..."

6. Section 2725 of the Code states:

"(a) In amending this section at the 1973-74 session, the Legislature recognizes that nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities. It is the intent of the Legislature in amending this section at the 1973-74 session to provide clear legal authority for functions and procedures that have common acceptance and usage. It is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses and to permit additional sharing of functions within organized health care systems that provide for collaboration between physicians and registered nurses. These organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

(b) The practice of nursing within the meaning of this chapter [the Nursing Practice Act] means those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including all of the following:

(1) Direct and indirect patient care services that ensure the safety, comfort, personal hygiene, and protection of patients; and the performance of disease prevention and restorative measures.

(2) Direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety Code.

(3) The performance of skin tests, immunization techniques, and the withdrawal of human blood from veins and arteries.

(4) Observation of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and (A) determination of whether the signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and (B) implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or changes in treatment regimen in accordance with standardized procedures, or the initiation of emergency procedures.

(c) 'Standardized procedures,' as used in this section, means either of the following:

(1) Policies and protocols developed by a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code through collaboration among administrators and health professionals including physicians and nurses.

(2) Policies and protocols developed through collaboration among administrators and health professionals, including physicians and nurses, by an organized health care system which

1 is not a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of  
2 Division 2 of the Health and Safety Code.

3 The policies and protocols shall be subject to any guidelines for standardized procedures  
4 that the Division of Licensing of the Medical Board of California and the Board of Registered  
5 Nursing may jointly promulgate. If promulgated, the guidelines shall be administered by the  
6 Board of Registered Nursing.

7 (d) Nothing in this section shall be construed to require approval of standardized  
8 procedures by the Division of Licensing of the Medical Board of California, or by the Board of  
9 Registered Nursing."

10 (e) No state agency other than the board may define or interpret the practice of nursing for  
11 those licensed pursuant to the provisions of the chapter, or develop standardized procedures or  
12 protocols pursuant to this chapter, unless so authorized by this chapter, or specifically required  
13 under state or federal statute. 'State agency' includes every state office, officer, department,  
14 division, bureau, board, authority, and commission."

15 7. California Code of Regulations, title 16, section 1442, states:

16 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from  
17 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
18 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
19 nursing care as required or failure to provide care or to exercise ordinary precaution in a single  
20 situation which the nurse knew, or should have known, could have jeopardized the client's health  
21 or life."

22 8. California Code of Regulations, title 16, section 1443, states:

23 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
24 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
25 exercised by a competent registered nurse as described in Section 1443.5."

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1           9.     California Code of Regulations, title 16, section 1443.5 states:

2           "A registered nurse shall be considered to be competent when he/she consistently  
3 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
4 sciences in applying the nursing process, as follows:

5           (1) Formulates a nursing diagnosis through observation of the client's physical condition  
6 and behavior, and through interpretation of information obtained from the client and others,  
7 including the health team.

8           (2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
9 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
10 for disease prevention and restorative measures.

11           (3) Performs skills essential to the kind of nursing action to be taken, explains the health  
12 treatment to the client and family and teaches the client and family how to care for the client's  
13 health needs.

14           (4) Delegates tasks to subordinates based on the legal scopes of practice of the  
15 subordinates and on the preparation and capability needed in the tasks to be delegated, and  
16 effectively supervises nursing care being given by subordinates.

17           (5) Evaluates the effectiveness of the care plan through observation of the client's physical  
18 condition and behavior, signs and symptoms of illness, and reactions to treatment and through  
19 communication with the client and health team members, and modifies the plan as needed.

20           (6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
21 health care or to change decisions or activities which are against the interests or wishes of the  
22 client, and by giving the client the opportunity to make informed decisions about health care  
23 before it is provided."

24           10.     Section 118, subdivision (b), of the Code provides that the suspension/  
25 expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of  
26 jurisdiction to proceed with a disciplinary action during the period within which the license may  
27 be renewed, restored, reissued or reinstated.

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11. California Code of Regulations, title 16, section 1471 states:

“For purposes of this article:

(a) ‘Standardized procedure functions’ means those functions specified in Business and Professions Code Section 2725(c) and (d) which are to be performed according to ‘standardized procedures;’

(b) ‘Organized health care system’ means a health facility which is not licensed pursuant to Chapter 2 (commencing with Section 1250), Division 2 of the Health and Safety Code and includes, but is not limited to, clinics, home health agencies, physicians' offices and public or community health services;

(c) ‘Standardized procedures’ means policies and protocols formulated by organized health care systems for the performance of standardized procedure functions.”

12. California Code of Regulations, title 16, section 1472 states:

“An organized health care system must develop standardized procedures before permitting registered nurses to perform standardized procedure functions. A registered nurse may perform standardized procedure functions only under the conditions specified in a health care system's standardized procedures; and must provide the system with satisfactory evidence that the nurse meets its experience, training, and/or education requirements to perform such functions.”

13. California Code of Regulations, title 16, section 1474 states:

“Following are the standardized procedure guidelines jointly promulgated by the Medical Board of California and by the Board of Registered Nursing:

(a) Standardized procedures shall include a written description of the method used in developing and approving them and any revision thereof.

(b) Each standardized procedure shall:

(1) Be in writing, dated and signed by the organized health care system personnel authorized to approve it.

(2) Specify which standardized procedure functions registered nurses may perform and under what circumstances.

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1 (3) State any specific requirements which are to be followed by registered nurses in  
2 performing particular standardized procedure functions.

3 (4) Specify any experience, training, and/or education requirements for performance of  
4 standardized procedure functions.

5 (5) Establish a method for initial and continuing evaluation of the competence of those  
6 registered nurses authorized to perform standardized procedure functions.

7 (6) Provide for a method of maintaining a written record of those persons authorized to  
8 perform standardized procedure functions.

9 (7) Specify the scope of supervision required for performance of standardized procedure  
10 functions, for example, immediate supervision by a physician.

11 (8) Set forth any specialized circumstances under which the registered nurse is to  
12 immediately communicate with a patient's physician concerning the patient's condition.

13 (9) State the limitations on settings, if any, in which standardized procedure functions may  
14 be performed.

15 (10) Specify patient record keeping requirements.

16 (11) Provide for a method of periodic review of the standardized procedures.

### 17 COSTS

18 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
19 administrative law judge to direct a licentiate found to have committed a violation or violations of  
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
22 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
23 included in a stipulated settlement.

### 24 DEFINITIONS

25 15. **External jugular vein:** The more superficial of the two jugular veins situated on  
26 each side of the neck. They drain blood from the head, brain, face and neck and convey it toward  
27 the heart.

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**FIRST CAUSE FOR DISCIPLINE**

**(Gross Negligence)**

16. Respondent is subject to disciplinary action under section 2761, subsection (a), subparagraph (1) of the Code as defined in the California Code of Regulations, title 16, section 1442, in that she engaged in conduct that constituted an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. The circumstances are as follows:

17. On October 23, 2008, Respondent was working as a charge nurse on the day shift at Mercy Hospital. Another nurse, N.R. advised Respondent that she had a patient, an inmate from the California Department of Corrections, who needed a blood transfusion and that she was not able to start an intravenous device (IV) on the patient.

18. Respondent assessed the patient and placed a jugular IV in the patient.

19. Respondent was not trained by Mercy Hospital in the placement of a jugular IV. Mercy Hospital did not have a hospital policy and procedure allowing Respondent to place a jugular IV in the patient at the time of the incident. Respondent did not document the procedure.

20. The placement of a jugular IV had not been ordered by a physician for the patient and a physician was not present at the time she placed a jugular IV in the patient. Further, Respondent did not inform any physician of her intentions or actions at the time she placed a jugular IV in the patient.

21. Respondent failed to consider and/or perform alternatives to the placement of a jugular IV in the patient.

22. Respondent later notified a doctor at Mercy Hospital, Dr. Y., that she had placed a jugular IV in the patient.

23. Following an investigation by Mercy Hospital regarding the incident, Respondent resigned her position.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Incompetence)**

3 24. Respondent is subject to disciplinary action under section 2761, subsection (a),  
4 subparagraph (1) of the Code, as defined in California Code of Regulations, title 16, section 1443  
5 and 1443.5 in that she did not possess and/or failed to exercise that degree of learning, skill, care  
6 and experience ordinarily possessed and exercised by a competent registered nurse. Complainant  
7 refers to, and by this reference incorporates the allegations set forth above in paragraphs 16 – 23,  
8 inclusive, as though set forth fully.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct)**

11 25. Respondent is subject to disciplinary action under section 2761, subsection (a), in that  
12 she engaged in unprofessional conduct. Complainant refers to, and by this reference incorporates  
13 the allegations set forth above in paragraphs 16 – 23, inclusive, as though set forth fully.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Registered Nursing issue a decision:

17 1. Revoking or suspending Registered Nurse License Number 462923, issued to Donelle  
18 Girouard, aka Donelle Marie Girouard;

19 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of  
20 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
21 125.3;

22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: December 19, 2012

24 *for* *Louise R. Bailey*

25 LOUISE R. BAILEY, M.ED., RN  
26 Executive Officer  
27 Board of Registered Nursing  
28 Department of Consumer Affairs  
State of California  
Complainant

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